

DRAFT Program Letter

TO: All LSC Program Directors

FROM: Randi Youells, Vice President for Programs

DATE: DATE

RE: Services to Clients with Limited English Proficiency

The purpose of this Program Letter is to provide a context and guidance for LSC grantees with client eligible individuals in their service area who are persons with limited English proficiency.¹ This Program Letter aims to ensure access to legal services by focusing on ways of expanding access to justice for communities of potentially eligible clients who speak English only with limited proficiency. Communication is central to meaningful access to legal services. And the most effective way of increasing the flow of information between LSC grantees and such groups is to create methods of communicating with them in their primary language.

This Program Letter sets out parameters for high quality and effective service to clients with limited English proficiency (LEP). If a program has undertaken all the activities described below, the program is most likely providing equal avenues of access to justice for eligible LEP residents in its service area. A program that has not considered and adjusted every aspect of its delivery system, however, will need to do so along the lines of the guidance given here. Moreover even programs that have established efficacious LEP initiatives should be reviewing them regularly to ensure that they continue to be appropriate for the LEP communities they serve.

The limits of my language mean the limits of my world.
(Ludwig Wittgenstein, philosopher, 1889-1951)

Background

As part of their legal obligation to refrain from national origin discrimination, LSC grantees must ensure they are providing proper service to persons with limited English proficiency. Programs must offer the same range of legal services and legal resources to client eligible LEP persons as they do to others in their service area.² Indeed, in some cases it may be appropriate to provide additional services to LEP clients that English proficient clients would not be offered, in order to assure that the LEP clients are reasonably able to benefit from services. (Example: Advising an LEP client on how to

¹ LSC is very grateful for the essential involvement of Neal Dudovitz, Laurence Lavin, Kate Meiss, Irene Morales, Lillian Moy, Keith Talbot, Paul Uyehara and Doreena Wong in the development of this program letter.

² LSC's mission is "to promote equal access to the system of justice and improve opportunities for low income people throughout the US by making grants for the provision of high quality civil legal assistance to those who would otherwise be unable to afford legal counsel." (LSC Mission Statement, www.lsc.gov)

file a pro se petition in court may be tantamount to denying help even though the same service could be pivotal in resolving an English proficient client's legal emergency.)

In conjunction with a government-wide effort, the US Department of Justice (DOJ) has recently issued guidance regarding national origin discrimination affecting LEP recipients of federally-funded services. LSC guidance on the topic is contained in this Program Letter. We also urge LSC grantees to review the guidance posted at www.lep.gov. The DOJ and other guidance will be very helpful to LSC programs and other service providers serving low income clients. To further assist programs, LSC devotes a portion of its resource website (www.lri.lsc.gov) in the "diversity" section to LEP. There you will find model approaches to making legal services offices accessible to individuals with limited English proficiency and links to other useful sites.

Many recipients of LSC funds are or will be participants in DOJ projects, including Violence Against Women Act initiatives, bringing them within the ambit of the DOJ requirements concerning LEP clients. To simplify LSC grantees' reporting burden, LSC follows much of the DOJ Guidance³ regarding services for persons with limited English proficiency. Thus LSC adopts the DOJ definition of such individuals as those "who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English."⁴

LSC expects that its grantees will not be unnecessarily restrictive in their screening of applicants or in refusing services to applicants who might be eligible for services. While programs must remain cognizant of their responsibilities under 45 CFR Part 1626, they should be equally careful not to discriminate improperly against applicants for services on the basis of race, ethnicity, national origin, accent or English-language ability.

Guidance for LSC grantees

So that their staff can adequately serve LEP clients, LSC grantees must address LEP concerns in four areas. Programs must assess client needs and program resources in their service area, create program policy that reflects these needs and resources, train program staff on how to serve LEP clients and finally keep track of both the way that staff carry out the program policy and the degree to which the policy and resources must be calibrated to changing client communities and needs. Ideally programs will not only work with LSC-funded peers in the state but also with other members of the state justice community to ensure that needs assessments, training, resources and service provision are coordinated in the most effective and efficient manner.⁵

³ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.

⁴ Federal Register: June 18 2002(Vol.67, No. 117, page 41455 et seq. at 41459)(accessed at www.lep.gov).

⁵ This letter bases much of its guidance on the work of organizations that have already grappled with the challenges of providing legal services to language isolated populations. In particular LSC appreciates the work of Community Legal Services (Philadelphia), Legal Aid Society of Northeastern New York, Neighborhood Legal Services of Los Angeles County and the National Health Law Program, and the guidance of the LSC Leadership and Diversity Advisory Committee. The letter was also enriched by public comments submitted in early December 2003.

As used in this guidance, an “LSC program” is the corporate entity that receives LSC funding. This Program Letter does not envision that each office of an LSC program will have the same LEP needs as another in its service area, particularly where the LSC program serves a vast or highly populated geographic area such as an entire state, large portion of a state or a big city. We will refer to LSC programs both as “programs” and “LSC programs” in this letter.

Language needs and program ability to respond appropriately

Programs are expected to assess the language needs of LEP poverty populations in their service area. For purposes of this letter, the affected LEP community is the group(s) of persons eligible to be served or likely to be directly or significantly affected by the LSC program and who do not speak English proficiently. A determination of whether the individual has limited English proficiency must be made of the client or client-eligible person. This determination should not be affected by the English language proficiency of a friend or family member who accompanies the client. An exception occurs when the client is a minor child or an incapacitated adult. Then, when the LSC office needs to interact with a parent or guardian rather than the client, language services may be necessary to communicate with those who make decisions for the child or incapacitated adult. Generally, however, choice of language is the client’s to make, and the program must communicate with the client in the client’s preferred language.

Creating a program definition for who is an LEP client will require some thought. Here is an approach adopted by the National Health Law Program.

There are various ways to measure whether a multilingual person is limited English proficient. The Census Bureau asks individuals to self-identify their ability to speak English using a three-part question:

- Does this person speak a language other than English at home?
- What is this language?
- How well does this person speak English --- (1) very well, (2) well, (3) not well, or (4) not at all?

According to the 2000 Census, over 11 million households are “linguistically-isolated,” meaning that every single member of the household over age 14 speaks a non-English language and speaks English less than very well. The Census also found that almost 11 million people, or 4.2 percent of the population, speak English “not well” or “not at all.” Over 21 million people (8.1 percent of the population) speak English less than “very well.”

The National Health Law Program views the 21 million people who speak English less than “very well” as LEP persons in the health care context. This is because medical terminology is difficult to understand, so the level of English comprehension needs to be high. This view of limited English proficiency finds support from the United States Department of Health and Human Services Office for Civil Rights (OCR), which defines LEP persons as those who “cannot speak, read, write or understand the English language at a level that permits them to interact effectively with health care providers and social service agencies.”⁶

A client who has limited English proficiency is one who elects to speak and/or have documents translated into a ‘primary language’ that is not English. A primary language is the language preferred by the client for communicating with the program, after the client has been told that the program provides free interpreters. Clients may wish to communicate orally in one language and have documents translated into another. For example a client may want to speak Spanish with her advocate. She may prefer that the program correspond with her in English because, in this hypothetical, she is illiterate in both languages, and bilingual family members, who have been educated in the US, read English but not Spanish.

Population Size

To learn the extent of the need for LEP resources, the program must first reach a conclusion about the size and need of the target groups. The DOJ Guidance sets out four factors to assess this, and which LSC asks its grantees to follow.

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
- The frequency with which LEP individuals come in contact with the program;
- The nature and importance of the program’s services to people’s lives; and
- The resources available to the program and the cost of obtaining them.

Determining the approximate size of this population may not require surveys or similar activities. The US Census reports on LEP communities by county in its 2000 Reports under the heading “linguistically-isolated households”⁷ where sections on persons who speak a language other than English “less than very well” are also contained. Programs may have to speak to US Census offices for their region to obtain smaller breakdowns than are found on the Census website (www.census.gov) and its sections. Additional and perhaps more detailed data may more easily be available from state and local government entities including planning agencies, and state and local

⁶ Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities, 2d ed. National Health Law Program, Los Angeles (August 2003) pp 1.3-1.4. *See also* 6 Fed Reg (February 2002).

⁷ The 1990 U.S. Census category for the same population was speaking English “not well” or “not at all.”

departments of social services, education and health. Local universities and hospitals are another potential resource, as are immigration and refugee advocacy groups and public schools in the service area. It is also possible that some members of the state's justice community have already tabulated these data.

LSC grantees must determine which LEP individuals and groups in their service area are most affected by the program, and the steps that the program needs to take to assure them "meaningful access." First consider how often in the past the client-eligible LEP population has sought services and what services and languages were needed. For programs with culturally competent staff and records of clients' primary languages, this may be a relatively straightforward internal survey. Others may have to rely on anecdotal staff reports. In making this assessment, programs without bilingual staff and other resources for serving non-English speakers must also consider the degree to which their services have been or are currently inaccessible by eligible people with limited English proficiency.

Each program's internal survey should be compared with census data and statistics from other resources (state and local governments, etc.). This will help the program determine if there are communities that it has overlooked or ones that have recently come to the service area. Groups with which the program has the most contact are those that are more likely to need the program's services. This does not mean, however, that the other groups are not equally needy, but that they may be smaller or that there has been no outreach into their community or that program staff do not speak their language and have no ties with their group.

Critical Legal Needs

The program must then evaluate the importance of its services to clients. All legal representation services offered by LSC grantees are essential. Federal civil legal services protect vulnerable people from violence, homelessness, illegal discrimination and denial of critical benefits. The program must weigh the extent to which LEP individuals and families do without emergency legal assistance because these crucial services are not available in the client's language. This examination will help the program determine how to restructure relevant areas of its delivery system and what resources are needed to involve LEP populations in its service provision structure and planning

As part of the decision on what changes must be made immediately and what efforts are long-term activities, the program may take into account existing resources and the cost of acquiring additional ones that are essential to providing the LEP population with high quality services. Decisions should be made in the context of the size of the LEP groups and the resources necessary to most effectively serve them. Long-term activities should be reflected in documents and discussions that address the organization's strategic planning for staff, program work and budgets.

Information on the civil legal needs of the LEP groups in the program's service area may also reveal a variance between the program's current priorities and the critical legal services necessary to adequately serve the service area's limited English proficient

people. When that is the case, programs should revisit their priorities in the context of their obligation (under civil rights laws and LSC grant assurances) to provide meaningful access to justice to client-eligible LEP communities.

Resource Examination

In reviewing the existing resources available to serve LEP clients, programs must consider the current policies, practices and the existence of language barriers within the program that interfere with client access, among other things. Three questions below are among those all programs must pose. Inquiries should be made of all levels of interaction with clients – telephone and other intake services, referral, advice and representation, advocacy and outreach, including written and electronic material.

- Does the program have bilingual advocates on staff able to deliver services in the client’s language, or are language interpreters on staff, and/or are there arrangements for trained interpreters and translators for languages likely to be encountered?
- What current program policies, resources and practices exist for identifying a client’s primary language and providing language services for that individual?
- Is staff aware of these policies and practices, and are they actually followed?

Once the program has assessed the needs of its LEP population and its resources, the program must formulate written policy and practices that will guide staff and board members in ensuring that LEP clients have full access to the program’s services. The policy should be distributed to all staff and made available to the public, including LEP clients. These should also be sent to LSC.

Intake is a key situation for LEP clients of legal services providers. Programs should develop a mechanism for determining when an individual has limited proficiency in English and note that in the client’s records maintained by the program. In this way, subsequent interactions with the client can be undertaken with a bi-lingual staff person or an interpreter, and in conjunction with other resources that accommodate the client’s culture and language. To help clients identify their language abilities, programs may want to consider the ‘I speak cards’ available at www.lep.gov.⁸ Each office of the program must post multi-lingual signs in as many languages as possible including the languages of the groups it has determined fit within its target LEP population, announcing the availability of free interpreters.⁹ Since clients may be illiterate in both their primary language and in English, it is also essential for staff to make oral inquiries. Programs that use “I speak” cards and posters can have the client point to their language. This easy way of showing linguistic preference avoids assumptions or confusion.

⁸ Programs may also want to provide ‘I speak’ cards in wallet size for clients to use in obtaining other federal services in addition to legal services, as well as in other instances. “I speak” cards are small cards that identify in English the language of the bearer, for example, “I speak Spanish” or “I speak Tagalog.”

⁹ A useful sign is available from the U.S. Department of Health and Human Services at www.hhs.gov/region10/ocr/pdf/interp2.pdf.

Policy considerations

Each program must develop a policy that assures that the program provides meaningful access to LEP clients and that reflects the resources and client needs of its particular service area. A comprehensive policy stands the most chance of success and requires the engagement of representatives of each of the organization's functions, such as administration, pro bono, litigation and advocacy, support staff, intake, community leaders, potential beneficiaries and the program board. While the policy will reflect the strengths and mission of the organization, and the culture and legal needs of the LEP communities, there are some considerations that are essential and must be addressed. Staff who implement these policies will not only need to be knowledgeable about the policies and resulting practices, but also have an understanding of the LEP communities to be served and of why it is important to have meaningful access for all clients in need of services.

*To know another language is to have a second soul.
(Charlemagne, King of the Franks, 742-814)*

Bilingual staffing interpreters and translators

Determining who is competent to interpret (oral translation) and translate (written translation) is one of the most consequential of a program's efforts in serving clients who do not speak English well, if at all. Bilingual staff, translators and interpreters should be fluent in two languages (English and that of the LEP client) and have an understanding of legal language and concepts that are involved in the services rendered. Program LEP policy must clarify for staff when to obtain an interpreter and what documents must be translated as well as competency standards for each.

Programs must require more of bilingual staff and interpreters than self-identified fluency in another language. Bilingual staff and interpreters must speak the language of the LEP client, but also understand the legal terms used in communicating between the client and advocate. In some languages the legal concepts and even words that are familiar to a legal services advocate may not exist, and the translator will have to convey meaning in a situation where there is not an exact language counterpart. Interpreters and translators must be educated about confidentiality and impartiality in interpretation rules, and understand their obligation under interpreters' professional code of ethics. Programs also have an obligation to their bilingual staff to provide training programs and professional development opportunities for these employees. Such training would necessarily include that on the ethics of interpretation.¹⁰

All efforts to increase bilingual resources will increase a program's ability to reach its LEP community, but the most effective and preferred resource is bilingual staff. Not only will bilingual staff understand the program's needs and services, but they will allow the program to confidently create long term strategies for the deployment of services to this community.

¹⁰ The National Association of Judiciary Interpreters (NAJIT) provides resources in this area. See www.najit.org. For additional information on NAJIT and standards for interpreters, see "Lost in Translation," Molly McDonough, ABA Journal, Vol 89, 22-23 (Nov 2003).

While the most useful approach for programs is to hire bilingual, culturally competent staff, that is not always possible. Although interpreters drawn from program staff are the preferred resource, their usefulness can be augmented and gaps filled by outside volunteer and contract interpreters and telephone language services. Contract and voluntary translators are sometimes available from local organizations, including community groups that serve the particular community the program needs to reach.¹¹ In each of these instances, the program must assure itself that the translator meets its internal standards of fluency, ethical behavior and comprehension of the legal terms and concepts at play in the particular situation.

A model *voir dire* to help judges ascertain whether an interpreter is qualified is available through the National Center for State Courts, and could prove useful to a legal services program. In addition, the *National Code of Responsibility for Interpreters* (and some state variations) may help staff convey to interpreters and clients the obligations of that role. The *Model Code* addresses the importance of accurate and complete interpretations, of impartiality, confidentiality, and of reporting any impediments the interpreter knows of that could interfere with their performance.¹²

Although it is not unusual to find that programs (and clients) rely on family and friends, this is the least preferred situation. Far too frequently family and friends are not trained interpreters -- they may not be proficient in English and may not understand legal terminology or situations. Interpretation by family members carries the risk of bias in the translation process, inadvertently through choice of word or emphasis, or through intentional omission of facts. When nonprofessionals such as family members are involved, the client's privacy diminishes as might the client's willingness to be candid. For these reasons, program policy must strongly encourage the use of bilingual staff and interpreters instead of family and friends for interpreting.¹³

Of even greater concern is the use of minor children as interpreters. In addition to the problems set out above, relying on children forces them to become privy to information that they may be too young or too immature to absorb properly. Use of minor children as interpreters should be tolerated only in extreme emergencies and if

¹¹ NLADA members may have an additional resource in availing themselves of a contractual agreement between NLADA and Language Line, with the following NLADA member benefits: waiver of the enrollment fee; reduced monthly minimum; aggregate discounts for per minute charges based on usage by all participating programs.

¹² McCaffrey, Angela, "Don't Get Lost In Translation: Teaching Law Students to Work with Language Interpreters," 6 Clinical L Rev 347, 376-377 (Spring 2000). Legal services programs may find this article a very useful resource for the many issues that can arise when clients need interpreters in order to be understood by English-speakers. Also found at www.lri.lsc.gov.

¹³ None of the sample policies on LSC's LRI website permit relatives, friends or children to translate for clients. See policies from Legal Aid Society of Mid-New York, Inc., Advocates for Basic Legal Equality, Legal Services of Northwest Ohio and Pine Tree Legal Assistance (Maine) at www.lri.lsc.gov.

there is no other resource, and then only until the services of a bilingual interpreter can be obtained.¹⁴

Programs may be putting their legal staff at risk of malpractice or ethical violations if they do not take every precaution to ensure that the communication between the attorney and client is accurate, free from bias, candid and confidential. In instances where a client insists that a family member or friend act as interpreter, the program should document that decision and may want to consider having on hand a waiver, in the client's language and in English, that the client can sign, acknowledging the risk and articulating an understanding that free professional services were offered and rejected. The program should also seriously weigh the benefits of including a program-sponsored interpreter in the client interview and subsequent meetings to protect staff.

In some instances, the client may have a sufficient grasp of English to provide basic and essential information for the intake process. That same individual may require an interpreter for a complex discussion with an advocate on the various legal remedies available to her. Clients who are able to communicate on a rudimentary level in English may be illiterate in English *and* in their first language. An interpreter may be needed to help them understand legal documents requiring their assent and signature.

Information on the availability of *free* interpreters and translators must be posted in the program's waiting room(s), printed in the program's brochures and other public notices, educational material and community fact sheets. It must also be included in the program's general telephone message so LEP persons who are illiterate will be aware of this resource. Clients who indicate somehow that English is not a language they speak with any fluency must be informed in their primary language that *free* interpreters are available to them for communicating with their advocate at the program's offices as well as at hearings.¹⁵

LSC has posted existing LSC grantee LEP policies on its LRI website at www.lri.lsc.gov. We have also included examples of successful approaches to the challenges of appropriately serving LEP clients.

Translating documents

Translators translate written material and materials based on writing, such as videos, from English to another language. Programs must determine which documents will be translated and into what languages. The DOJ Guidance defines a document as "vital" if its unavailability will deny a person meaningful access. Vital documents include program documents that the client must understand and sign, such as retainers, affidavits and, when appropriate, pleadings. When a client is illiterate in their primary

¹⁴ For a firsthand account of one teen's experiences as the family's translator, see "Opening Our Doors to Language-Minority Clients," Paul M. Uyehara, Clearinghouse Rev Vol 36 Nos. 11-12, March-April 2003, page 552, "A Teenager as a Family Translator." Also found at www.lri.lsc.gov.

¹⁵ Advocates and clients need to be able to communicate during hearings and at breaks in hearings, and the program's interpreter will be critical in these situations. This is a function that cannot be fulfilled by a court interpreter whose role, enabling the client-advocate conversation, is quite different from that of the court interpreter's charge of enabling client-court communication.

language, an interpreter may also be necessary to ensure that the client comprehends the critical document even after it is translated into the individual's primary language.

All vital program documents must be translated into the languages of the LEP communities in the program's service area.¹⁶ Although community outreach material is also critically important to service area residents, some documents may not need to be completely translated to be useful to potential clients as long as essential information about accessing the program and the availability of free interpreters is included in the target community's primary language.¹⁷

Considerations that govern selection of interpreters are applicable to translators. Staff should be a program's first choice. Outside professional translators and skilled volunteers who are competent in both languages and legalese can be used to fill gaps and expand staff resources. Of these, professional, certified translators are preferred. From time to time, to ensure that it is accurate and easily understood by clients, samples of the primary translator's work product should be reviewed by another translator. In all instances, the translator should be cognizant of the seriousness and importance of the role. Similarly as programs strive to ensure that documents and community materials are easily understood by client populations, the translator must strive to make the translation accessible by those with limited English proficiency.

Language protocols

Programs must have bilingual staff or interpreters available for those LEP groups that the program surveys and needs assessments indicate are frequently encountered and in need of legal services. Emphasis should be placed on first obtaining bilingual staff and interpreters for the most frequently encountered language groups. To this end, programs should aggressively seek staff with fluency in these languages and give additional consideration to hiring one or more persons to function exclusively as interpreters and translators when there are large LEP populations in the service area.¹⁸ Additionally, the program should have outside contractors available on an as-needed basis telephonically or in person for languages not covered by in-house resources and as back up for staff. Organizations serving immigrant and refugee populations, universities and community groups may be fruitful resources for hired or volunteer interpreter and translator services. Telephone-based interpreter services are essential in any program with full-service intake

¹⁶ LSC adopts the "safe harbor" definition for situations in which vital documents should be translated into the primary languages of the LEP community: LSC programs should provide written translations of vital documents for each eligible LEP language group that constitutes five percent of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally. If there are fewer than 50 persons in a language group that reaches the five percent trigger, the recipient does not translate the vital documents but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost. See Fed Reg June 18 2002 Vol 67, No 117, pages 41455-41472 or www.lep.gov, DOJ Final LEP Guidance.

¹⁷ Programs that serve large LEP populations that are illiterate may also want to consider having recorded material for clients – video, DVD, cassette tape – that includes essential and often repeated information. In these situations, too, oral presentations will be far more effective than brochures and flyers written in the clients' primary languages.

¹⁸ Bilingual fluency is an acceptable job requirement.

capabilities and/or where there are many language groups in the client population. In any instance when an interpreter is used, the program's standards of competency must guide the determination of who is selected. In order to use interpreters most efficiently, programs should regularly train staff on communicating with clients through an interpreter.

Programs or offices of programs may not always have interpreters on hand or vital documents translated into the language of a particular LEP client. As the DOJ Guidance notes: "To be meaningfully effective, language assistance should be timely." Programs must not allow the lack of availability of language services to result in a denial of effective services or impose an undue burden on the client. A fair standard to use in determining an "unreasonable delay" is to ask if the delay of services to LEP individuals is greater than the delay of services to an English proficient client. High quality legal services, which LSC grantees are obliged to provide to clients, implies services that are given in a timely manner and that do not jeopardize the client's rights. The LEP client should have to wait no more than the time it takes to obtain a telephone interpreter, if there is no in-person interpreter, because telephone services should always be available through the program's language line services. Understandably, the program may not be able to secure an interpreter's services immediately, but should at least make a timely effort to conduct an initial assessment and determine the level of urgency the client's problem presents, using telephone language interpreter services or similar resources that can be obtained quickly until an in-person interpreter can be found. Scheduling client interviews and other meetings for a later date, when interpreters are available, can constitute reasonable delay, if the client's legal needs are not of an urgent nature or the client's rights will not be compromised. Rescheduled appointments should not be delayed more than a few days or repeatedly rescheduled.

LSC expects that programs will begin to keep formal records on the primary language of each client it serves and whether or not that individual requires interpreter services. In this way, a program can be responsive to the client throughout its relationship with that person. Such record-keeping will also allow the program to determine the extent of its services to the LEP community, fluctuation in services and how best to prepare for new and emergent legal needs.

Staff considerations

Staff training on LEP procedures must occur regularly and be part of new staff orientation. Training should be based on the program's policies, and include information on the LEP populations served by the programs, the program's resources for assisting them and information about other community resources for specific LEP populations. It is very important that staff understand the cultural and language barriers faced by LEP clients, and be sensitive toward them.¹⁹ Advocates and other employees who will be

¹⁹ For a vivid delineation of the importance of helping staff understand the cultural background of their LEP clients see "Working with Linguistically and Culturally Isolated Communities: The Cambodian Outreach Project of Merrimack Valley Legal Services," pages 79-83, *Clearinghouse Review* May-June 2003. An additional and useful resource is Sue Bryant and Jean Koh Peters, "Five Habits for Cross-Cultural Lawyering." Both are also posted at www.lri.lsc.gov.

relying on interpreters during client meetings will need additional training on how to work with interpreters. Staff who are asked to provide interpretation and translation services, particularly if they are not trained in those areas, should be given opportunities for improving techniques, obtaining or maintaining certification and refreshing language skills that may be rusty.

There should be at least one person on staff who serves as the LEP coordinator, ensuring that documents and communications are translated, and that translated ones are current. This individual must note fluctuations in LEP populations and see that services are coordinated with significant changes. If the coordinator does not handle LEP training, that individual should help design it and be part of any team that oversees program interaction with LEP clients. Multi-cultural competence is an essential feature of the coordinator position as well as a firm grasp of the importance of meaningful access.

Appropriate service to LEP clients should be evaluated as part of staff performance appraisals.

Supervisors must take into account the “multi-tasking” that can inadvertently be expected of staff who are hired into the program for another position but become *ad hoc* interpreters because of their proficiency in a second language. If such individuals are expected to be available for interpreting and translating, their responsibilities in other areas should reflect this additional charge. Similarly, supervisors must recognize the amount of time involved in client interviews where an interpreter is used. Anyone who has ever question a witness or deposed an individual through an interpreter is aware that the process can take twice as long, as everything must be said two times. Staff who function in tandem with interpreters will of necessity have longer meetings and other oral interactions with their LEP clients. Caseload distribution should reflect this.

LSC expectations

This list of expectations reflects the suggestions and models submitted to LSC from its two Federal Register requests of the public for information on the best approaches for LSC grantees to adopt in order to successfully meet their obligation to provide LEP individuals with adequate access to federally-funded civil legal services. Additionally, LSC convened an advisory group of LSC-funded program leaders and other legal services providers who had addressed or were in the process of developing LEP strategies for their organizations. These expectations are based on those two avenues of research and guidance, and contain what we have determined are the parameters of a delivery system that provides adequate access to services for persons with limited English proficiency. While LSC anticipates that programs should not have any difficulty meeting the expectations, we also recognize that unforeseen obstacles can arise. For that reason, a program that cannot meet one or more of the dates listed below is asked to submit a written explanation of the reasons and proposing a new deadline. Explanations can be sent to Patricia M. Hanrahan at phanrahan@lsc.gov.

- Within one month from the date of this letter, programs should have in place a mechanism for recording the client’s primary language, (the language preferred

by the client for communicating with the program, after the client has been told that the program provides free interpreters) and the primary language of the person responsible for making decisions for the client. This system should also record the individual's need for an interpreter. Data may be entered in an open text field that allows the program to make general notes on the client's language needs, if that approach is preferred by the program.

- Within one month from the date of this letter, programs should have appointed one or more LEP coordinators to see that the policy's goals are implemented and should thereafter regularly review the program's LEP current and long-term strategies for relevance to existing LEP communities.
- Within six months of the date of this letter, and utilizing census and other data, programs should have completed a demographic language profile and identified the primary and other languages spoken by LEP communities in their service area. This demographic language profile will inform their subsequent LEP strategy and activities.
- Within six months of the date of this letter, programs should have completed their organizational survey of practices and procedures that may interfere with the provision of the highest quality services to LEP clients.
- Within nine months or 90 days from the completion of the demographic language profile, programs should have formulated and implemented a written LEP policy for their organization and submitted a copy to LSC.
- Within nine months from the date of this letter, or 90 days from completion of the demographic language profile, programs shall have developed an LEP policy setting out how they will ensure LEPs meaningful access to all services and activities and submitted it to LSC. The policy must address the elements listed below.

Policy Elements

1. **Oversight** -- Within nine months from the date of this letter, programs shall have developed a plan to ensure continued oversight and updating of the LEP policy and procedures. Such a plan should include provisions for regular reviews both as to needs and whether the systems used are working, and methods to revise the plan to address any problems.
2. **Staff** – Within nine months from the date of this letter, programs that serve an LEP community that the US Census report indicates is at least five percent of the eligible client community in the program's service area should have a recruitment plan for hiring at least one bilingual staff, preferably an attorney, for each of those language groups, (or have a plan for selecting and training existing staff advocates desirous of acquiring or improving another language). Ideally the plan will include staff

opportunities for learning how to improve their reading, writing and speaking in another language, but as a start the plan may focus on conversational skills.²⁰ Cultural competency training of all staff will also be part of the plan.

3. ***Training*** – Within nine months from the date of this letter, programs should have developed a plan for orientation and regular or annual training of all public contact staff who interact with clients (advocates, intake, community outreach and similar staff) on the program’s LEP policy, on how best to access language services, and on how best to use bilingual staff and interpreters when speaking with clients.

Within twelve months from the date of this letter, all program staff will need to be trained on and understand the program’s LEP policy.

4. ***Interpreters/Translators*** -- Within three months from the completion of their demographic profile, programs will have arranged for competent interpretation services for each of the groups shown by the census to have limited English proficiency who reside in the service area. Interpretation services can include bilingual staff interpreters, contracts with professional interpreters, formal arrangements or contracts with community or volunteer interpreters, and contracts with telephone language services.

Within the same period, programs should have arranged for translation and interpretation services on an as-needed basis.

Within the same period, programs should have put in place a plan to assess the proficiency and ensure the competency of interpreters and translators.

Within three months from the completion of their demographic profile, programs should have posted in all of the program’s waiting rooms, information about the availability of bilingual staff or free interpreters. This information should be given in at least as many languages as the census indicates are spoken in the service area.

Within twelve months from the date of this letter, all of a program’s community outreach material, including websites, should indicate in all appropriate languages that the program offers free translation services to clients wanting to use that resource in gaining access to the program’s services. Information on the program’s ability to serve clients in their primary language must be included in this material, where appropriate, including on web-based resources available to the public.

²⁰ Supervisors and staff need to be mindful of the language limitations of staff who are strengthening bilingual skills. Expectations should reflect the language abilities of the staff and not exceed the learning level and skill of someone whose fluency is the result of personal interest and informal experience rather than rigorous training in a second language.

- Annually in grant applications and renewals, programs will report to LSC on their efforts to reach LEP clients through outreach, in-house interpreters and translators, legal needs surveys, staff training and through other efforts.
- Program legal needs assessments must include a component that seeks to capture the critical and urgent legal needs of client-eligible LEP communities in the service area. Reports on survey, focus group and other means used to determine current and emerging needs must be reported on grant applications.
- During site visits and through other interaction, the LSC Office of Program Performance will examine a program's efforts in the area of service to LEP clients.
- Programs should approach their LEP strategy and its implementation in the context of a statewide effort that includes all stakeholders and considers the resources and challenges available to clients across their state. To the greatest degree possible, LSC grantees should coordinate their efforts to identify and serve LEP communities, educate staff about clients' cultural and language experiences, help staff work with the community and to access resources (including interpreter and translation services) and to survey the language and legal needs of the client population in a collaborative and comprehensive way.

Please send comments to Pat Hanrahan at phanrahan@lsc.gov by January 31, 2004.